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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,022	09/16/2003	Ruben L. Gray	7296-3U1	2570

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AKIN GUMP STRAUSS HAUER & FELD L.L.P.  
ONE COMMERCE SQUARE  
2005 MARKET STREET, SUITE 2200  
PHILADELPHIA, PA 19103-7013

EXAMINER
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YIP, WINNIE S

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/663,022

Applicant(s)

GRAY, RUBEN L.

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>September 16, 2003</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This is a first office action.

#### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 9-10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Molnar, IV (US Patent No. 6,298,866).

Molnar, IV teaches and shows an umbrella comprising a support rod (16), a umbrella frame with a cover member (14) being attached to an upper end of the support rod, a substantial cylindrical fan housing (60) secured on upper end of the support rod, said fan housing having a plurality of open slots (62) extending through the upper end portion and lower end portion of the housing to allow air flow therethrough (see Fig. 2), a fan (18) having a propeller (22) located within the fan housing (60) and being secured to an outer shaft (24) and rotated by an electrically powered fan motor (26), and a power supply (36) providing electrical power to the motor and a switch (72, 75) controlling on/off and reversible rotation of the Fan motor (see col. 3, lines 45-46 and lines 64-66).

3. Claims 1-10 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by French Patent No. 2,617,689.

French Patent teaches and shows an umbrella comprising a support rod having a handle at its lower end, a umbrella frame including a plurality of ribs (7), stretches (18) and a peg (14) supported on an upper end of the support rod, a flexible cover member inherently being supported by the umbrella frame, a substantial cylindrical fan housing (9) secured on upper end of the support rod, said fan housing inherently a plurality of open slots extending therethrough to allow air flow therethrough, a fan having a propeller (4) located within the fan housing (9) and being secured to an outer shaft (8) and reversibly rotated by an electrically reversible powered fan motor (3), and a power supply including at least one battery (2) and at least one solar cell (1) located on the upper end of the fan housing (9), the solar cell maintaining the charge of the battery and providing electrical power to the motor, a switch (17) controlling a reversible rotation of the fan motor, and a on/off switch (16) located on the handle.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molnar, IV '866 as applied to claim 1 above, and further in view of Rawls et al. (US Patent No. 6,027,309).

The claims are considered to be met by Molnar, IV as explained and applied set forth above rejections except that Molnar, IV does not define the umbrella having the power supply provided by solar cell. Rawls et al. teaches a fan assembly (14) would be mounted to an

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umbrella (502) (see Fig. 13), and the fan assembly being located on upper end of the support rod (12) and driven by a fan motor powered by at least one battery (354) charged by at least one a solar cell panel device (302) mounted on top of a fan. It would have been obvious to one ordinary skill in the art, at the time the invention was made, to modify the umbrella of Mohnar, IV having at least one battery rechargeable by least one solar cell located above the fan housing which supports the fan on the upper end of the support rod as taught by Rawls for alternatively providing power to the fan motor as claimed.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molnar, IV '866 in view of Rawls et al. (US Patent No. 6,027,309) for the same reasons set for above rejections.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molnar, IV'866 for French Patent No. 2,617,689 as applied to claim 1 above, and further in view of in view of Bitting et al. (US Patent No. 4,499,055).

The claim is considered to be met by Molnar, IV or French reference '689 as explained and applied set forth above rejections except that Molnar, IV and French reference do not define the umbrella having the switch for controlling reversible rotation of the motor is located on the fan housing. Bitting et al. teaches a fan assembly comprising a motor mounted within a fan housing (102) for driving a propeller (101) of a fan in two rotating directions, and a switch (S1) for reversing the rotation of the electric motor is located on an exterior surface of the fan housing. It would have been obvious to one ordinary skill in the art, at the time the invention was made, to modify the umbrella of Molnar, IV or French Patent having the reversible

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operating switch being located on the fan housing as taught by Bitting et al. as an obvious matter of choice of location for being easily operated without confusing with the on/off switch.

### *Citations*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. PCT WO 02/69751, Zamarin et al. (EP 851,178), Zamarin (EP 887,596), Hainke et al. '217, Schwan et al. '281, Allen '212, Valdner '975, and Copple '296 teach various umbrella combined with a fan as similar to the claimed invention.

### *Inquiry Contacts*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491 (or 571-272-6870 after April 7, 2005). The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486 (or 571-272-6867 after March 29, 2005). The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip  
Primary Examiner  
Art Unit 3637

wsy  
March 16, 2005